

Remarks / Arguments

Substance of Interview

A telephone interview was held on 10/22/2008 between Examiner Patricia L. Nordmeyer, Applicant Ted Dean, and Applicant's attorney Charles Knobloch. Applicant stated in Applicant Initiated Interview Request Form that Miles '591 does not disclose the working combination of a plastic strip, adhesive elements, and coating to effect operability of supporting discrete packages in a removably adhering manner while also preventing binding of the strips during storage and dispensing from a roll. Per the interview, Applicant clarified that discrete packages are not an element of limitation in the subject claim. Applicant further clarified the entry of references for information disclosure. Examiner responded that Applicant's current Response to Office Action (filed 09/04/2008) would be taken up for examination.

Summary of Amendments to the Claims

Claim 1 has been amended to clarify the structural features and placement of the adhesive elements on the strip of plastic.

Claim 2 is original.

Claim 3 is cancelled without prejudice.

Claim 4 is as previously presented.

Claims 5 - 13 are original.

Claims 14 - 21 are cancelled without prejudice.

Claim Rejections based 35 USC §103

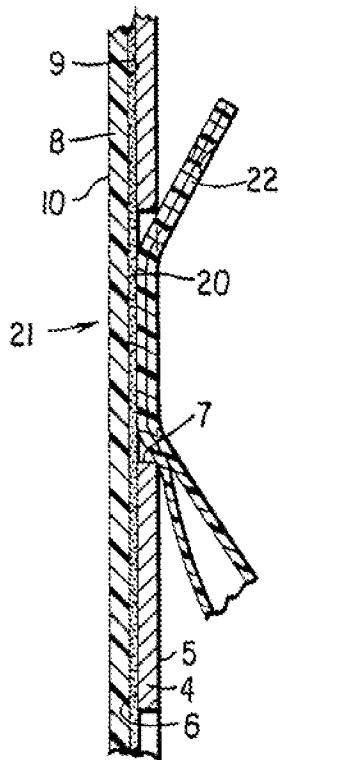
The Examiner rejects Claims 1, 2, and 4-13 under 35 USC §103(a) as being unpatentable over Rodriquez (4,817,805) in view of Miles (6,383,591). Applicant respectfully traverses this rejection.

Claim 1.

Claim 1 is amended to clarify the structural features and placement of the adhesive elements on the strip of plastic. In particular, the adhesive element is disposed on top of the surface of the strip of plastic, thus exposing the complete relief of the adhesive element, including its thickness and sides, for use in holding a discrete package. This is disclosed in the original specification as filed, for example, at page 9, lines 11-14; and page 10, lines 11-12; and Fig. 5, elements 45 and 50; and Fig. 8, elements 45 and 50. Further, the adhesive element is pre-shaped upon lamination. This is disclosed in the original specification as filed, for example, at page 6, line 21 through page 7, line 5; and page 8, lines 14 to 21; and page 8, line 22 through page 9, line 5; and Fig. 9.

As will be detailed, below, Rodriquez (4,817,805) discloses a multi-layer sandwich with holes in one of the outer layers. These holes expose an adhesive that is sandwiched between the two outer layers. As such, Rodriquez (4,817,805) fails to disclose a plurality

of adhesive elements and also fails to disclose lamination of adhesive elements on the second side of a plastic strip. Additionally, Applicant amends Claim 1 to clarify that the lamination of a pre-shaped adhesive element is laminated onto one outer surface of the plastic strip, with the other outer surface of the plastic strip being coated.



Rodriquez (4,817,805), therefore, fails to disclose the elements as claimed.

- First, Rodriquez' component #3 (Rodriquez Fig. 1, col. 5 lines 3-5) is not laminated to the second side of the plastic strip. Component #3 is stated by Rodriquez as "an area of

adhesive". As shown in Rodriquez Fig. 2 (illustrated here) Rodriquez component #3 does not exist; it is perhaps an exposure of Rodriquez component #20 (adhesive) caused by Rodriquez component #7 (aperture). The adhesive, therefore, is not laminated on either side of Rodriquez component #1. A plurality of adhesive elements is therefore not disclosed, as suggested by the Examiner.

- Second, Rodriquez' component #4 is stated by Rodriquez to be a "masking strip". Rodriquez component #4 is not disclosed as an elongated plastic strip capable of supporting a plurality of discrete packages and therefore is not relevant to the invention as claimed.
- Third, Rodriquez component #9 is not disclosed as a plurality of adhesive elements, rather Rodriquez component #9 is disclosed as a "front side" having adhesive (component #20) disposed thereon.

A *prima facie* case of obviousness is therefore not established since Rodriquez (4,817,805) and Miles (6,383,591), alone or in combination, fail to disclose and teach all the limitations of Applicant's Claim 1, as amended.

In particular, Miles does not disclose and teach a laminated adhesive that is capable of supporting a plurality of discrete packages. Rodriquez does not disclose and teach a coating that is substantially non-adhesive to a laminated adhesive capable of supporting a plurality of discrete packages. Combining the two references does not disclose and teach the structural limitation of a coating-adhesive combination such that the coating is substantially non-adhesive to the plurality of laminated adhesive elements, the adhesive elements concurrently capable of supporting a plurality of discrete packages. The two references, in combination, do not predict a merchandising strip having laminated adhesive elements concurrently capable of supporting a plurality of discrete packages with a side that is substantially non-adhesive to the adhesive elements. It is important to note that the components in combination do not merely perform the function that each component performs separately.

There is no suggestion to combine the teachings and suggestions of Rodriquez (4,817,805) and Miles (6,383,591), as advanced by the Examiner, and even a hindsight combination of Rodriquez (4,817,805) and Miles (6,383,591), in view of the present Application, fails to adequately disclose Applicant's invention as claimed. One of ordinary skill in the art could not have combined the claimed elements by the known methods disclosed in Rodriquez (4,817,805) and Miles (6,383,591), without more.

Further, the combined disclosures of Rodriquez (4,817,805) and Miles (6,383,591) render the combination inoperable in that: a) the adhesive coating combination in Miles would not support a plurality of discrete packages, and b) the elimination of a masking strip in Miles would not be operable under the adhesive strength requirements of Rodriquez. Mere combination of the two references, without more, does not indicate that a device can be made that can concurrently exhibit the characteristics disclosed in both references. Nothing in the references show that the adhesive-coating combination disclosed in Miles would ever be capable of supporting a plurality of discrete packages. Nothing in the references show that the adhesive that is capable of supporting a plurality of discrete packages is also capable of resisting adhesion to the coating of Miles. An artisan having common sense at the time of the invention would not have reasonably considered the disclosure of Miles enough to apply to the device of Rodriquez.

Further, Miles (6,383,591) is non-analogous art. The disclosure of Miles (6,383,591) is repeatedly directed to "repositionable pressure sensitive adhesive (RPSA)" (Col. 1, Lines 21-22) and, in particular, to repositionable pressure sensitive adhesives that are "tacky to the touch" having "a peel adhesion of approximately 10 to 300 gram/centimeters" (Col. 5, Lines 32-33). Miles' disclosure of a repositionable pressure sensitive adhesive of such low adhesion is not reasonably pertinent to the art of the present invention. The apparatus of Miles is structurally different and does not perform the same function.

Rodriquez (4,817,805) teaches away from the invention as claimed. Rodriquez (4,817,805) discloses an “area of adhesive” exposed in the bottom of an aperture and not on the side of the strip; this structure is also disclosed as preventing deposit of adhesive on the back side of the strip when the strip is rolled. See, Rodriquez Fig. 2. See, Rodriquez (col. 5, lines 23-28), “It is important that there is no adhesive on back side 10 of securing strip 8, since otherwise that adhesive would interfere with the handling and transportation of the apparatus, since different strips of the apparatus could adhere to each other.” Applicant’s invention, as claimed, dispenses with the need for a masking strip by overtly disposing the adhesive onto the surface of the strip. Rodriquez (4,817,805) does not disclose elimination of the masking strip. Additionally, Miles (6,383,591) does not disclose how to eliminate a masking strip under the conditions of using a strip or adhesive that is capable of supporting a plurality of discrete packages.

Miles (6,383,591) teaches away from the invention as claimed. Miles (6,383,591) discloses a strip and adhesive capable of supporting the strip on an object but does not disclose the converse, a strip and adhesive capable of supporting an object. The adhesive, therefore, is only disclosed to be of strength capable of holding the strip. Miles does not disclose an adhesive capable of supporting an object on the strip that is also substantially non-adhesive to the opposite side of the strip. In particular, Miles (col. 6, lines 42-49) discloses that the back side coating is “low adhesion” under the low strength requirement of the adhesive of Miles. Under the high strength requirement needed to support a plurality of packages, Miles fails to disclose that the back side coating would be substantially non-adhesive using an adhesive of the strength required under Rodriquez or under Applicant’s present invention as disclosed and claimed.

Rodriquez (4,817,805) and Miles (6,383,591) actually teach away from the present invention as claimed. Rodriquez (4,817,805) uses holes through a plastic layer to expose an adhesive layer that is disposed onto the opposite side of the plastic layer. Applicant removes the need for these two layers (the layer holding the adhesive layer in addition to the plastic strip layer) and claims instead a plurality of adhesive elements laminated directly onto the plastic layer. Besides eliminating the layer holding the adhesive layer,

this reduces the amount of adhesive that is consumed on the product (adhesive only as elements and not as a layer covering an entire surface) and makes the opposite side of the plastic strip available for a coating that is substantially non-adhesive to the adhesive elements. In Rodriquez (4,817,805), any non-adhesive coating would be applied to the layer holding the adhesive layer and not to the plastic layer itself. Miles (6,383,591) uses the adhesive backing to support only the strip itself onto other objects and not to support the other packages or objects by the strip.

The disclosure of Miles (6,383,591) exemplifies Applicant's break-through in bringing together the combined functions for use in merchandising strips. Applicant has found a way to bring capabilities to merchandising strips that may be similar to those previously found with low adhesion, "tacky to the touch" adhesives, per Miles. Previously, per Rodriquez, it was "important" to not allow the adhesive to touch the "back side" of the merchandising strip. The present invention is truly novel in that none of the art disclosed by the references cited, even when taken as a whole, clearly demonstrate a merchandising strip capable of holding a plurality of packages using adhesive laminated onto the top surface of the strip, with the strip substantially non-adhesive to the adhesive when rolled.

Examiner cites Miller (6,840,391) as pertinent to Applicant's disclosure. Miller supports the non-obviousness of Applicant's disclosure in that Miller continues to use an adhesive with a release paper to mask the adhesive from the other side of the strip. The backing member and release paper combination of Miller masks the adhesive from coming in contact with the other side of the strip when rolled. Applicant dispenses with these structural limitations, at least in part by Applicant's lamination of pre-shaped adhesive elements directly onto the top surface of the structural plastic strip. Miller continues to teach away – continues to teach the old art – as distinguished from Applicant's disclosure. The citation of Miller strongly suggests the relevance and non-obviousness of Applicant's new contribution to the art.

Claims 2, 4-13.

Claim 2 and Claims 4 - 13 depend upon Claim 1 and should be allowable should the Examiner find Claim 1 to be allowable. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). MPEP 2143.03.

Summary.

For all the above reasons, Applicant submits that the claims are now in proper form and that the claims all define patentably over the prior art. Therefore applicant submits that this application is now in condition for allowance and favorable action on the merits of this case is respectfully requested.

An interview with the Examiner is requested.

No claims were added. It is believed no fees are due regarding claims. Payment of additional fees for Extension for Response within the Second Month, 37 CFR 1.17(a)(2), is included with this Response. The Commissioner is hereby authorized to charge Deposit Account No. 01-2511 for any fees associated with this application, and to charge any additional filing fees or credit any overpayment to Deposit Account No. 01-2511.

Respectfully Submitted,



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